

PRESENT: Sup. F. Newlin; Councilmen J. Ceretto, M. Johnson, D. Kilmer & J. Langlois; Dep. Sup. E. Elgin; Town Atty. J. Leone; Dep. Atty. D. Boniello; Eng. D. Britton; Finance Officer E. Evert; WPCC Ad/Op, T. Lockhart; Rec. Director M. Dashineau; 3 Press; 20 Residents; and Clerk C. Schroeder

The Supervisor called the worksession to order at 7:11 pm. The first item on the agenda was in reference to the current proceeding regarding the DEC Hazardous Waste Siting Plan. Newlin informed those in attendance about the upcoming Public Hearing called by the DEC on the State's "draft Hazardous Waste Facility Siting Plan" to be held on **Tuesday, March 16, 2004 at 6 PM at the Lewiston-Porter Senior High School Auditorium, 4061 Creek Road.** "I encourage and invite all the members of the public to please attend this. It is a very serious matter..."

2) 1972 NYS DOH Order: The Supervisor read a draft copy of a letter to Antonia Novello, Commissioner of Health, NYS Department of Health pertaining to a 1972 Order. The V/Lewiston, Senator Maziarz, Assemblywoman DelMonte and Congresswoman Slaughter have already signed similar letters. The letter was read as follows:

We are writing in support of the recent statement by the Niagara County Health Department that you uphold the 1972 Order placed on 614 acres of the former Lake Ontario Ordnance Works site in Niagara County. A request was made to lift this Order by Richard Sturges of CWM Chemical Waste, LLC, ("CWM") in a letter to you dated December 23, 2003.

The prior use of this site by the Atomic Energy Commission as one of the principle dumpsites for radioactive waste for the eastern US has led to several attempts to cleanup the radiological contamination on the property.

We support the NYS Dept. of Health effort to conduct a thorough review of the 1980s U.S. Dept. of Energy surveys referenced in the CWM letter and all historical information on the property, and, to make a determination as to the adequacy of historical information and the surveys.

The history of this property combined with a variety of health concerns in our community warrant a full evaluation. During the course of this review, a meaningful two-way dialogue between the NYS Department of Health and both residents and citizens groups is encouraged.

The Supervisor said the Town Board is being asked to sign this letter in support with a copy going to Paulette Kline, Niagara Co. Health Director. At this time, he introduced town resident Amy Witryol, who is serving as liaison between the environmentally concerned groups and local governments.

Johnson MOVED to send this letter with the full support of the Town Board, Seconded by Ceretto, for discussion.

Langlois asked if this letter is identical to those sent by the other entities referenced earlier. Ms. Witryol said it was, within a word or two.

Langlois: It certainly has to be done. There is already been a lot of information that has been put out on this already -- the 1972 Order. A certain level of cleanup was done that essentially declared the site acceptable for certain uses. Part of this 614 acres is where Modern Landfill is located at the moment and a part of this 614 acres is where Chemical Waste Management is located... Apparently, Modern did remember to send a letter releasing them from the 1972 Order but as I understand it, CWM did not ask to be released from it. It is an administrative over-site, as I understand it, on their part.

Ms. Witryol was asked to make a brief statement in regard to this matter.

Witryol: CWM is one of the largest, if not the largest, commercial, industrial hazardous landfills in the U.S. It is also the repository for many superfund waste sites throughout the

nation. PCBs are the largest component of waste being disposed of there today from most of the U.S. The Town Council is very much aware that it is located a mile from our schools and another mile from the Great Lakes. The CWM property has radioactive contamination from the former Manhattan Project operations there, which has been documented in the past to have spread. CWM is not licensed for it or possesses the expertise to deal with this type of radioactive contamination. NYS DEC regulation for CWM does not use standards applicable to radioactive leak-contaminated property. To date, the State of New York has considered this situation an acceptable risk to residents and children, in a county where a variety of documented health problems, some clustered around CWM, exist.

There was a 1972 NYS DOH Order issued on CWM property restricting any activity that might exasperate the radiological contamination that was found there. This Order had not been addressed for many years until raised by residents during 2003. Suddenly, on 12/23/03, more than 30-years later, CWM issued a letter to the State DOH, requesting that the Order be lifted. Our County and State health departments have recently begun to study all historical information to more closely view this request in the context of today's health and safety standards before considering CWM's request.

The following is quoted from a March 2002 Report produced by the Army Corps of Engineers. "The Niagara Falls Storage Site is a remnant of the U.S. Army's original Lake Ontario Ordnance Works ("LOOW") property, portions of which were used for war time Manhattan Energy Department for the storage and train shipment of radioactive materials. As a result of these operations, some portions of the former LOOW other than the present Niagara Falls Storage Site ("NFSS") were also contaminated. In addition, some of the radioactive materials stored at the NFSS were subject to water and wind erosion over the years. As a result, radioactive materials migrated off-site chiefly thru on and off site drainage ditches. These radioactively contaminated areas are located adjacent to or near the NFSS and referred to as vicinity properties."

CWM is, of course, a property adjacent to the NFSS and has 19 vicinity properties or thereabouts which the Army Corps has referred to. The Dept. of Energy certified most, but not all, CWM property as safe from radioactive contamination based on surveys and follow-up testing done in the early 1980s. Today, the NYS DOH is examining these surveys and the history of CWM property to determine if those surveys, as CWM contended in their Dec. 2003 letter, are in fact proof that its operations are safe. If not eternal proof, CWM certainly has taken the position that these Dept. of Energy reports were good for at least the last 20 years plus the next renewal period and it has requested from the State for many more years.

If CWM radiological issues have been given attention in recent months it's only because of work done by (Town of) Porter resident, Ann Roberts, who has children attending the Lew-Port schools nearby. Though heavily relied upon as proof that CWM is safe, no one was taking a look at these early 1980s Dept. of Energy surveys until Ann made it an issue last year. This is not an indication of a hazardous landfill that is well run or well supervised by agencies. We know that while CWM property was used as a Manhattan Project dumpsite for the Eastern U.S., including the famous Oakridge Tennessee Weapons Production Facility, there were no records of what was dumped where for a 10-year period.

A few weeks ago, a CWM engineer was quoted in the paper as saying that some of the radiological contamination documented on CWM property 20 years ago has not been remediated because "heavy over-growth made those hotspots inaccessible." The operators on the CWM site have put or will put landfills, ponds and tanks on parts of the property making then inaccessible for radiological testing and remediation. Try to control the remaining Manhattan Project contamination is a challenge without the risk of CWM operations.

Thanks to the Town Council for taking a serious look at the potential solution to these projects. Please support our Niagara Co. Health Dept. by encouraging State Dept. of Health to conduct a thorough and fair evaluation while seeking public input and two-way dialogue.

Newlin: ... We appreciate your group's work and the fine efforts to try and inform this community better

Ceretto: The whole issue with CWM scares me, especially with the proximity with Lewiston-Porter and all those children being next to CWM... Years ago, coal miners would bring in the mines, canaries in the cage. They knew it was a dangerous situation if that canary died. They knew to get out. My fear is that today, in 2004 at Lewiston-Porter, that our children are those canaries today. I hope to God that they don't have to die until we do something. That we can do something before that happens.

Langlois: There is a need to go over the old data to make sure that everything has been covered. It has been well documented that there were a few areas at CWM that were not covered and considered safe radiologically. They are working on that at the moment. A good review overall of the records that have been done and what still needs to be done is very good. I've been a member of RAB (Restoration Advisory Board) from the beginning. It now has been reconstituted and they have some new committees. One of them is a technical committee for the NFSS... The Chairman of that committee suggested that, because of the urgency and the concerns of everyone, they would like to meet with this (Town) Board in a public meeting and talk to us about what has been done, what is being done, the degree of hazard, the plans for cleaning it up long-term and also to address these various cancer studies and statistics that have been out because there a great amount of misunderstanding of that...

Newlin recommended that a date to meet with this group be determined at the regular meeting. Langlois concurred. "I think it would be detailed enough so that it would merit a full-scale meeting for just that subject." Langlois said he would try and obtain a time/date from John Battaglia, Chairman of the Technical Committee for such meeting.

The Motion in support of the letter to the Commissioner of Health regarding the 1972 NYS DOH Order was carried 5-0.

3) Speed Study (Moore Road): Johnson referred to a request from Mrs. Denise Johnson, 2486 Moore Road, that speed limit signs be posted of at least 45 mph or lower and that several "Children at Play" signs be posted as well. Johnson noted that the Highway Supt. can install the "Children at Play" signs but that he is formally asking for a request to the DOT for a speed study on Moore Road.

Johnson MOVED to request a speed study from the DOT for Moore Road. Seconded by Kilmer, for discussion.

Johnson said the road is currently not posted. It was his understanding that any road that is not marked is allowable at 50 mph.

Kilmer questioned whether it needed to go before the DOT if it is a town road. Atty. Boniello said he is checking to see if there is anything in the Code relative to a speed limit. If it is not a State Road, I doubt very much they would do anything with this road. They would leave it up to the town to decide what they would want to do.

Johnson asked that they carry through with the motion. "I assume that if he made this request, it must be something that we need the DOT's permission to do the study."

Motion carried 5-0.

Secondly, Johnson referred to correspondence from Supt. Reiter recommending that the Drainage Dept. reimburse Cindy Moran, 538 Meadowbrook Drive, \$102.60 for a broken storm connection.

Due to the fact that Supt. Reiter was not available to answer questions relating to this matter, **Langlois MOVED to table, Seconded by Newlin. Motion carried with 3 Ayes (Kilmer/Langlois/Newlin) and 2 Nays (Ceretto/Johnson).**

4) Computer Upgrade: Dep. Sup. Evan Elgin recommended to the Town Board that they not approve the ungrade of the computer of the Deputy Clerk Donna Garfinkel "I had a

chance to work with the computer. I just did some simple updates and a few patches to the computer. She's been operating for a week now without any issues with the computer whatsoever."

5) Re-imbursement Request: This pertained to a request from Michele Destino, 789 Pletcher Road, for reimbursement of a water purifier filter that was clogged due to a water problem that occurred between 12-20-03 and 12-24-03. Atty. Boniello said he spoke with Mrs. Destino twice on this matter. Apparently, town crews were doing some work at the end of the street. Mrs. Destino claims she had yellow water in her home for approx. four days. She is requesting reimbursement for a new filter for a total of \$149.00.

Langlois MOVED for approval, Seconded by Johnson, for discussion.

Langlois: This might be something we can do against our regular water account. It really is a result of putting in the new water lines... When you have a dead-end line and you are replacing some lines, the stagnant water in there can get stirred up and come back in and interfere with just this kind of thing. It appears to me that this is fully justified.

Kilmer: ... I think we should have a policy that when they report this that one of our Water Department employees go down and verify exactly what happened.

Motion carried 5-0.

6) Extending Summer Employment: At the last meeting, Atty. Boniello was asked to review this matter and he has since spoken with Councilman Langlois about this issue. "We hire summer employment. Most of them are summer employment ages 18-20 for up to 12 weeks. It is my understanding that we've paid them in the past thru a voucher system... My position clearly, in light of what I've been told, is that they are considered an employee for all purposes. They are under the direction and supervision of a town supervisor. They are paid an hourly rate. They are provided a schedule. I really, really sincerely believe that we stop paying thru a voucher and take the position they are employees with the full benefits and earnings of employees; basically withholding tax, compensation insurance, etc. My understanding is a lot of these young people use tools & machines. They should clearly be covered under compensation. The policy that we have been operating under should cease, in my opinion. They are not independent contractors. Essentially, it is going to cost us a little more but I think in the long run it will well be worth it, especially if we have an injured 18 year old or someone else using town equipment. The other issue we need to ask is what is a seasonal employee. Ed (Evert) might want to comment on this. I think we have taken the position that it is employment not to exceed 120 days."

Evert: That language came out of one of the union (teamsters) contracts. I think it is inconsistent with our handbook. I would suggest that you review this with Barb Cich. It is a personnel matter and she is familiar with all the rules. Civil Service is a factor. Health care's a factor. She has a good handle on all those issues.

Boniello: The budget may have to be modified to take into consideration disability, compensation and so forth.

Langlois: We also have to understand that if it goes above a certain number of days and you have the same people and they go back to school, they might be eligible for unemployment insurance, which we would have to pay. We have to be careful we don't hire the same people all the time to accumulate enough hours so that we are responsible for unemployment when they are back in school. I think we had some cases of that a few years ago...

Newlin: We'll direct this to the next Personnel Committee meeting to come up with some workable criteria for exactly what constitutes a seasonal employee and to make sure those criteria are adhered to.

7) Committee Attendance Policy: Ceretto said it has been asked by the Parks & Recreation Advisory Board for a policy on attendance as they have somebody on the committee that

because of his work situation, has not been able to attend any of the meetings in 2003. "...Our recollection is we don't have a policy at this time for attendance on our committees. And, the request is actually to be very lenient. We're not looking to get people off of these committees. It's just these extreme situations."

Boniello said he would come up with some verbiage. "It should be a standard policy for all committees."

In another matter, Ceretto referred to a memorandum from the Signage Committee relative to review of the construction of a 49" (height) by 110" (width) sign for Pletcher Road Park that will read "Welcome to Lewiston Town Park at Pletcher Road". The memo indicated agreement with the proposed sign.

Ceretto MOVED to approve the Signage Committee's recommendation to purchase a sign for Pletcher Park, Seconded by Johnson and carried 5-0.

Ceretto noted that the next Parks & Recreation Advisory Board meeting is scheduled for March 17, 2004 at 6:00 pm (changed from 7:00 pm).

8) Golf Course: Ceretto said the next meeting of the Golf Course Committee is March 18, 2004 at 6:30 p.m. Gary McDannell, from the Army Corps of Engineers, will be present to answer questions relative to the SEQR process.

Ceretto: In the last week or two, there has been some movement as far as the Engineer mitigating things that he feels are in a good way as far as getting this golf course accomplished. In the environmental area, there are two-folds to this golf course with the contract being ended. We've spent \$105,000 and if it is approved by the SEQR, which we are working on, and the public has to approve the bonding, the developers would reimburse us. That is why we are looking at the SEQR, since this contract is up and the environmental area has to continue... I want to look into the SEQR and be assured that if we move forward and before any more money is spent, that it will be money well spent. The second area is the finance. Who is going to pay this extra cost? The developers at this time would like to continue with the same contract. We've asked Dave Boniello, our attorney, to negotiate. The biggest issue out there, from what I'm hearing, is that residents do not want us to spend any more money on this environmental testing... It's very possible at this time that the Town of Lewiston might not have to spend any more money for the SEQR process and still get it done. We're still in negotiations... If this gets done and this moves forward, I'm asking the committee to set up a calendar so that we have public meetings. SEQR says that we should have these types of meetings for the environmental, but I want to have meetings with the public to show the financial end. That seems to be the more important issue. I want the developer to show that he's put money also into this golf course. That it is a partnership. I want to give him the opportunity to show the public his expenditures and show that this is a true partnership and show why we should have a golf course.

In another matter, Atty. Boniello asked to respond to Mrs. RoseMary Warren's letter and her position that Village of Lewiston residents would not be responsible for payment on any potential bond for the purpose of a golf course. "She's absolutely correct. I reviewed this with our Bond Counsel, Mark Cramer, Hiscock & Barclay. He's going to follow-up with a written letter and opinion of the Controller's office. The golf course will be in the Town. This Board has no authority or jurisdiction over the Village of Lewiston or its residents; thereby, they would not be voting on a bond resolution and would not be responsible to pay it unless their government decides to share or merge this issue with us, which is unlikely but potentially possible. The Controller's office has issued rulings on this, which I will provide to the Board once I receive a copy of them. As you know, this issue can go to referendum -- either permissive or mandatory; however, it is not essential. If the bonds are paid out of the general fund, it is not necessary to have a referendum. If there is going to be a special assessment of any kind or any kind of tax levy, then ultimately, it should go to the voter..."

Ceretto asked that the letter and Controller's opinion be sent to Mrs. Warren once it is received

Langlois: I'm surprised that if we do this as a whole-town -- The Village is part of the whole-town so it is a bit of a surprise to me here. It's unfortunate that people in the Village are going to have to pay regular rates rather than Town of Lewiston rates for our wonderful golf course when it gets developed. Obviously, if they are not part of voting for it or paying for it, there are not going to get the benefit of having the lower golf rates. As far as the golf course as John (Ceretto) was talking about, I would like to have our Engineer, who has recently talked to Gary McDannell, talk about the map we sent on delineating all of this. That was what was holding up his final statement or decision that he was going to look favorably if we get down to _ an acre.

Britton: There are two primary environmental issues, as you know -- the tree issue and the wetlands. These two issues have basically led us to the dilemma of feasibility. Is it feasible to have a golf course constructed on this particular property? I talked with the DEC today. The DEC has regulations or control over the SEQR. The DEC rendered a decision or an opinion today that this project is feasible -- that conceptually, based on a map that I just submitted last week, they would issue a water quality certification. That is a key component in the wetlands permit being issued. Wetlands permit thru the Army Corps has been tied into the certification by the DEC. In the Army Corps permit, they require that we drop it below the _ acre. You have added several features to the map, including cart paths, drainage ways, and ponds and modified the alignment layout to avoid them. The first criteria by the Army Corps is to avoid wetlands. If we avoided it we would not be here right now. The second criteria is to minimize it to the maximum extend possible. I feel that we have met that criteria. By getting under that _ acre, there is a possibility we would be able to apply for a nation-wide Army Corps permit, which would allow us a little more flexibility. This project, in my opinion, is feasible as it stands right now from a conceptual standpoint. We have 0.46 acres that we have identified we would impact that is in one area. The impact would appear to be mitigable... Currently, we are at a position where the Army Corps is not going to render any more information to us as far as whether they are going to issue a permit or not. The DEC is waiting for the draft EIS to be submitted to them for comment...

Ceretto noted that Gary McDannell would be present at the March 18 meeting to address any concerns.

Langlois: ... The DEC said it is feasible and the Army Corps of Engineers said that if we got down to less than _ an acre they would look favorably upon it... What more can we do? Gary McDannell said he can't sign off until it gets done. Let's finish up the work so that we can get on with the public hearing.

Kilmer: We've beaten this thing to death. We're at the part where we have to make a decision... I was set to make the motion to spend the additional money to finish these studies... We've spent \$105,000. It is another \$30,000 to finish this. I would just as soon finish the studies and if John has a way to get the money -- if the person is going to pay the \$30,000, we'll just reimburse the town with it.

Ceretto said it would not work that way. He would request an executive session at the end of the worksession to discuss funding to complete the SEQR process. "... Right now, we have a situation because the developer does not want to spend any extra money on this golf course and we don't. We've hit a stalemate. How do we move forward without spending any money? I think I have a solution. Please don't spend any of the taxpayers' money until you hear what I have to say."

Newlin: I would like to speak to Mr. McDannell personally. He told me he would call me once he was in receipt of these documents. He said he would make some sort of -- on the record -- opinion. I'm very wary of spending any further tax dollars on this until I get some conversation with the Army Corps.

9) Comprehensive Plan: Ceretto said the next Comprehensive Plan Meeting is scheduled for March 20 at 8:00 am at Town Hall. They are working on getting the Zoning Laws in compliance with the Comprehensive Plan. Ceretto said they are going thru a transition and as

they are implementing these laws, the old laws are going out and it could present legal problems because of this transition. Ceretto said the Comprehensive Plan Committee is asking that Atty. Dan Spitzer be permitted to attend Planning Board meetings and give his legal advice for an additional fee of \$7,500. "He is our zoning specialist. He is helping us with our zoning laws and the revisions to it. In order to avoid any situations that may produce legal challenges as a result of this transition, that we give this extra work to Dan Spitzer and as a second objective, I would like him to use his expertise to help the Town Board to work with prospective developers to produce quality projects. This would be for at least the next couple of months."

Newlin: My understanding is that we still have some monies left from the \$20,000 that was allocated to Mr. Spitzer for last year.

Evert: There were some capital monies in the range of \$35,000 that we used for him initially. This \$7,500 would still be within those perimeters.

Newlin: Until those monies are depleted, since we already have some money set aside for Mr. Spitzer that we wait, even if it is a week or two, before we allocate any more monies. We already have him covered for work he is doing for the town and any other future work he might do... As a former member of the Planning Board, this is a difficult time now because we're crossing over from the old zoning laws into the new zoning laws. Mr. Spitzer, being a very well renowned expert on these matters, it's sometimes good to have him there at some of these meetings maybe during this transition time to make sure the Planning Board is acting properly. This wouldn't be a permanent position at all. The Planning Board itself needs some guidance... Mr. Spitzer said he would be glad to put on, free of charge, some sort of seminars that would help get some members of this Board, the Planning Board and the Zoning Board of Appeals up to speed on what this new zoning law would encompass and how it would impact our decisions.

Ceretto: Some of the things he said for prospective developers that are coming into the town, they should be aware, even the ones that are coming in front of us now, of what's coming in. He said that because of the time, they might be applying in one area, but it's best for them to know the new law that might come in. Until they put the shovel in the ground, they are obligated for whatever law is in place. Because of this transition, he's going to have to start attending meetings. He has the information about what is coming in next... You don't want to have a moratorium at this time. I think this is the better way to go -- that we do it right but we don't stop progress as far as development.

Kilmer: If you have approval of a project in your hand and we create new zoning, are you not grandfathered?

Newlin: I asked that question specifically at the New York meeting we went to. I got two answers. One attorney said you cannot and the other one said the new Town Board is free to do whatever it wants. Either way, it is going to go to the courts, I think.

Johnson: ... Bob Coulter told me if you have the shovel in the ground with your project you are okay but if that shovel hasn't started and you change the zoning whatever is there, there is no grandfather... We've retained Dan Spitzer to do this. This is just additional services that he can help guide us being the fact that you are better to legally do it right up front rather than to spend time in court fighting over issues. He could help developers coming to the table. I think it is a great idea at least until we get this zoning in compliance with the Master Plan...

Newlin: If we need to act on this in terms of a budgetary matter we'll do so at the Town Board meeting... At the next Comprehensive Planning meeting we should get from Mr. Spitzer anything more he would like from the town.

Ceretto said they would have revisions to the new Zoning Law at the March 20 meeting. "If the revisions are okay with the committee, then we'll look for that final document. I'm hoping that by April, this Town Board will be able to look at what we have and have a worksession in May for approval"

10) WPCC: a) Pretreatment Program: Lockhart said this item was tabled at the last RTMB. He is requesting assistance in putting a Pretreatment Program together for the WPCC. "In the packet that I submitted to you, the EPA has listed categorical industries that require pretreatment for acceptance into a sanitary sewer. The various ones that are on there are or could be in the future coming into the sanitary sewer, i.e. CWM, Modern, dairy waste, hospital and dental industries.

Langlois: It's very obvious that we need to have this work done to set this in place. It doesn't mean we have to take anything from anybody but that we need this in place so that we can handle them as they come to our treatment plant.

Lockhart said members of the Sewer Advisory Board have approved this item.

Langlois MOVED to approve funds not to exceed \$10,000 for study of the Pretreatment Program. Funds to come from line item 8130.0400SS1. Seconded by Johnson and carried 5-0.

b) Replacement Vehicle: Lockhart asked to replace a 1994 Chevy Caprice with a 2004 4-wheel drive Blazer from the State Contract bid. If approved, Lockhart said he would declare the 1994 Chevy Caprice as excess equipment and sold to the highest bidder as is.

Johnson MOVED to approve the purchase of a 2004 Chevy Blazer from the State Contract bid in the amount of \$19,149.55 to be charged against line item 8130.200-SS1 (Equipment), Seconded by Ceretto and carried 5-0.

c) Bid: Portable Generator: Lockhart referred to a request from David Harvey, Sewer Department, to go to bid for the purchase of a portable generator to service the Myers Duplex Grinder Pumping Stations. The expected cost is not to exceed \$25,000. Funds have been budgeted for this expenditure under the appropriated fund balance for SS2-1000-0599-0000.

Kilmer MOVED for approval. Seconded by Ceretto and carried 5-0.

11) Riverwalk: As was discussed at the last meeting, Kilmer noted that developers have submitted a modification and application for Riverwalk. "The application, after going to the Zoning Board, there were contingencies upon their final plat approval. We wagered five contingencies upon that. One of them they were not successful on -- the Zoning Board (approval). I have had discussions with Mr. Leone and the attorneys from the State. They said the best course of action is to rescind that one criteria from the five criteria and remove it and let the person modify their original application."

Kilmer MOVED to remove the Zoning Board approval contingency from the stipulation in their original final plat approval. Seconded by Langlois.

Leone: Basically, I took the position that when Riverwalk went to the Zoning Board of Appeals ("ZBA") and was denied permission to the area variance that that was the end of their application. Some of the attorneys from the State however indicate that given the fact that they have now reapplied or asked for a modification of their application to be reconsidered under the Cluster Development law that was approved in December and went into effect in January (2004) that the application is alive but that the contingency that it go to the ZBA is no longer necessary. Even if they were to be denied approval under the Cluster Development, that would be the end of it. If they were to be granted approval under Cluster Development, there is no need for area variances because the Cluster Development itself has variances that are part and parcel of it. That particular contingency is sort of superfluous. It would be my recommendation to first of all recognize that the application that Riverwalk submitted has been now modified under Cluster Development and is back with the Planning Board where it supposed to be under this local law and to rescind the ZBA approval contingency as being unnecessary and then to simply hold the matter in advance here before this Board until you figure out what the Planning Board is doing.

Motion carried 5-0.

12) Dept. Head/Employee Meeting: Kilmer provided an update of a meeting that was held 1/30/04 among department heads and non-union employees. He provided a memo pertaining to several issues that were brought up for the Board's review. Newlin asked to defer action on these until the regular meeting.

Kilmer noted that one of the hi-lites of this meeting included holding a department head meeting once a month, preferably the Wednesday following the regular Town Board meeting. Newlin said he would call a meeting for that following Wednesday and would distribute a memo for such notice.

Newlin asked that if any Board Member had a comment on these issues to contact Councilman Kilmer or himself (in Kilmer's absence).

Regarding the issue of a Development Review Committee, Atty. Leone said this is being addressed by the Comprehensive Plan Committee.

13) Town Hall Expansion: Kilmer updated the Board on the initial meeting of the Town Hall Expansion Committee. "What they first want us to do is to get a general consensus in which direction we want to go. Everyone has his or her own ideas. At the first meeting, I asked Justice Gee and his staff to determine if there are any grants for Court House construction. Chief Winkley is to find out if there is any kind of funding available for a Law Enforcement/Police Station. As for Haz-Mat, the one issue that came out of the meeting, and it is going to become quite controversial, I looked at some plans that were drawn up years back and we have a ton of land behind us. This would be quite a savings for that \$60,000 piece of property we are going to buy on Upper Mountain Road. We have to come to a consensus on this Board if it's a good idea to locate everything on one campus... You have to determine whether you want to have a Haz-Mat and a police station up the hill and the Town Hall down here. The justices felt that if we are going to do something and if we have money available, having a police station where the courthouse is would be a good idea. Their records and everything are right here..."

14) Town Hall Shed: Kilmer asked the Board to approve the purchase of a garden shed for the Town Hall at a cost not to exceed \$1,000. "The only reason I'm asking for it at the worksession is that Kevin (Norwich) has a deal from Greg's Pools. They said we could have one of their displays for \$800, which is half the purchase price. I'm asking for \$1,000 just to make sure that we cover it."

Kilmer MOVED for approval to purchase a garden shed at a cost not to exceed \$1,000. Seconded by Johnson and carried 5-0.

15) Buffalo St. Sewer Ext: Langlois referred to a memo from O'Brien & Gere relative to work that was approved on the Sanitary Sewer Extension to serve 5816 Buffalo Street. In accordance with SEQR, it is O'Brien & Gere's recommendation that the Town Board issue a Notice of Determination of Non-Significance ("Negative Declaration") with regards to this project.

Langlois MOVED to issue a Negative Declaration on this project and to authorize the Supervisor to sign the Environmental Assessment Form and any applicable easements. Seconded by Johnson and carried 5-0.

16) Sanborn Library -- Transfer of Land: As a point of information, Leone said there is a piece of property behind the Sanborn Library that the Fire Company wants to acquire. There is some question as to whether or not there are leases on there that the Town of Lewiston is part and parcel of. "Last week, some papers were dropped off at my office. I've had the occasion to give them a cursory look. It looks as though there were two leases on the property -- One involving the Sanborn Lions Club and one involving the Library. On the face it looks as though they have expired. I want to take a closer look. They also dropped off a photocopy of an abstract of title. I want to give that a cursory look as well

and kind of give a little bit of a title report if I can to the Fire Company before I recommend that this Board move one way or the other.

17) Snowmobile Trail: Leone said he spoke to the person who signed the original letter, Gary Broderick. "Mr. Broderick indicated to me that most of this snowmobile trail goes thru NiMo property, not Town of Lewiston property. I told him the map that had been provided wasn't clear enough for me to make that determination. If it does go thru any of the Town's property, I told him that I wanted the Town named as additional insured on their insurance policy. He didn't have a problem with that. I wanted to know what type of entity the Snowmobile Club, Inc. was. Was it a business corporation or a not-for-profit corporation? He tells me it is a business corporation but they are applying for not-for-profit status. I want to see a copy of the corporate charter, the filing receipt, etc. Also, I had faxed to me a letter from NiMo with their list of requirements. I want to see that they are complied with. Last, but not least, we have a snowmobile local law in the Town of Lewiston. It was enacted probably 30 years ago or thereabouts. Once I get all the information we'll determine whether or not it is in compliance with that local law. That local law defines various roads in the town that can be used for snowmobiling and not. If the presentation is made, we have to make sure that it complies or to amend the local law in order to accommodate the request.

18) Postage Machine/Meter Proposal: Newlin referred to a request from the Town Clerk for replacement of the current 1991 Postage Meter, which will become obsolete in 2006.

Kilmer MOVED to approve a lease with Pitney Bowes for 54 months at a rate of \$261.00 per month, which includes maintenance and training. Funds are available from A1620.0400. Seconded by Johnson and carried 5-0.

19) Clerks Conference: Newlin referred to a request to allow Deputy Clerk Carole Schroeder to attend the NYS Town Clerks Association's 2004 Conference in Saratoga Springs from April 18 - 21. Expenses will be for registration, mileage, tolls and luncheon costs. No lodging expenses would be incurred. Registration is due by 3/12/04. Total expenses should not exceed \$350.00. Funds have been budgeted for this expenditure.

Johnson MOVED for approval, Seconded by Langlois and carried 5-0.

20) Processing of the Abstract: Newlin read the following memo from Barb Joseph into the record:

It has become clear that processing the abstract for the Regular meeting held on the fourth Monday of the month is creating a problem for several department clerks and me.

This is especially apparent with our credit card charges. They are received too late to be processed on the regular abstract yet their payment is due by the first of the month. I also seem to be processing more post audit batches in order to keep ahead of the finance charges.

I am requesting that you check with our attorney to see if the abstract can legally be presented at the worksession, as this is also a public meeting. If it were deemed appropriate then I would request this start with the April abstract.

Kilmer: Can we not approve the abstract at the worksession and re-announce it at the Town Board meeting? Either that or we turn the meetings back to the way they were.

Evert: Both the Board Meeting and the worksessions are publicly announced. I don't see a distinction.

Boniello: I think this (worksession) can constitute as a meeting.

Elgin: My suggestion is to contact the lending institution and creditors to have them change their remittance date also.

Newlin: We'll act on this at the RTBM... I don't see any problem with approving these at the worksession meetings.

Langlois: I would suggest we give consideration again of having our regular board meeting on the second (Monday) and the worksession on the fourth (Monday). It is still two weeks between. It would solve a lot of these problems that we're having here...

Newlin: I was given every assurance by this same person, Ms. Joseph, that this would not be a problem. That is why we proceeded as we did. However, it is clear that our assurances did not come to fruition. I appreciate your viewpoint Mr. Langlois. It will be taken under consideration. We'll act on that at our next Town Board meeting.

21) POST AUDIT: A request was made to include the following vouchers for post audit payment: Home Depot -- \$241.86, Office Max -- \$669.79, Office Max Credit Plan -- \$196.01, Radio Shack -- \$609.86 and HSBC Bank USA -- \$3,845.97. The above vendors are charge card purchases and, if paid late, a substantial finance charge and late fee are applied. In addition, a request was made for payment of the following: American Rock Salt Co. -- \$27,328.87, Cornell Local Road Program -- \$60.00 and Wyoming County SWCD -- \$20.00.
Kilmer MOVED for approval, Seconded by Ceretto and carried 5-0.

Lastly, George Briggs, Chairman of the Signage Committee, provided a written proposal for various sign changes on Miller Road, specifically: 1) Placement of Legally Blind sign; 2) Change speed zone to 30 MPH; 3) Propose two stop signs at corner of Miller and Nesbit Road; 4) Install crossing path across Miller Road for safety of children and adults; 5) Move playground sign closer to Miller Road and Nesbit Road; and 6) Apply to Niagara Co. for permission to install school zone at Colonial Village School and change speed limit to 20 MPH school zone.

Briggs said the Signage Committee has approved the placement of a Legally Blind sign and it has already been installed. As for the remaining proposals, Briggs asked that the Board review these for consideration.

Kilmer MOVED to approve the recommendations as presented by the Signage Committee for Miller Road, Seconded by Johnson and carried 5-0.

Johnson MOVED to enter into executive session to discuss contractual issues. Seconded by Langlois and carried 5-0. Time 9:00 p.m.

Present: Sup. F. Newlin; Councilmen J. Ceretto, M. Johnson, D. Kilmer & J. Langlois; Dep. Sup. E. Elgin; Atty. J. Leone; and Dep. Atty. D. Boniello.

No action taken.

A motion was made, seconded and unanimously approved to exit the executive session and adjourn the worksession. Time: 10:00 p.m.

Transcribed and
Respectfully submitted by:

Carole N. Schroeder
Deputy Town Clerk